

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Thursday, October 1, 2015
9:30 A.M.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 18, 2015

RE: Closed Session of the Board to be held on October 1, 2015

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. ABM FACILITY SERVICES, INC. DBA ABM BUILDING VALUE, 12-R3D6-3496 THROUGH 3498
2. CITY OF LONG BEACH, DEPARTMENT OF PUBLIC WORKS, 14-R3D5-0970

PETITIONS FOR RECONSIDERATION:

1. CGK INC dba PREMIER STEEL FABRICATION, 13-R4D4-0518 & 0519
2. REALTIME STAFFING SERVICES, INC. dba SELECT STAFFING, 12-R4D3-3687 through 3689

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

1. CHARLES PANKOW BUILDERS, INC., 13-R4D1-1759
2. SAVANT CONSTRUCTION, INC., 14-R3D1-3021
3. SYAR INDUSTRIES, INC., 13-R5D1-1876 through 1880

ORDERS DISMISSING APPEAL:

MATTERS INVOLVING LATE APPEALS:

(These are matters such as orders dismissing appeal, orders granting leave to file late appeal and orders denying leave to file late appeal)

ORDER DENYING LATE APPEAL

1. ANGEL SOTO AGUILAR DBA SCORPION PALLETS, 15-R6D5-9155
2. CESAR DIAZ DBA CESAR'S AUTO REPAIR, 15-R6D5-9157
3. MICHAEL PAUL ROMANI DBA EARTH STATION, 15-R6D7-9156
4. TIM BOERGER DBA JASMINE THAI CUISINE AND PHO NOODLE, 15-R6D5-9158
5. WALMART STORES, INC., 15-R3D3-9159

ORDER GRANTING LATE APPEAL

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

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MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. ACTION METAL RECYCLING, INC., R2D2-1125 THROUGH 1126
2. CHEVRON U.S.A. INC., 13-R6D3-0655 THROUGH 0662
3. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
4. CYBERNET ENTERTAINMENT, LLC, 14-R6D1-0364
5. DIONYSUS DREAM INC., DBA NEWPORT MESA CARWASH & SERVICE,
15-R6D5-9087
6. ECHO ALPHA INC. ET AL, 14-R3D1-0802 THROUGH 0804
7. EKEDAL CONCRETE, INC., 13-R3D1-0131 THROUGH 0133
8. GOLDEN STATE WARRIORS, 15-R1D4-9060
9. HERMAN WEISSKER, INC., 13-R3D1-3279
10. L & S CONSTRUCTION, INC., 10-R3D1-1821 AND 1822
11. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
12. McCARTHY BUILDING CO., INC., 12-R1D4-3458
13. MCM CONSTRUCTION, INC., 13-R1D2-3851 THROUGH 3854
14. NATIONAL DISTRIBUTION CENTERS, LP, 12-R6D2-0391
15. GONZALO OLASCOAGA DBA GONZALO OLASCOAGA, 13-R6D5-2097
AND 2098
16. SIERRA FOREST PRODUCTS, 09-R2D5-3979
17. TRI-STATE STAFFING, 12-R6D2-0378
18. UNITED PARCEL SERVICE, 14-R2D1-1779
19. W.A. RASIC CONSTRUCTION, INC., 13-R3D1-2952

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
3. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
4. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
5. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
6. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
7. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
8. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
9. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
10. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
11. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
12. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
13. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
14. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
15. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)

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16. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
17. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
18. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
19. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
20. SHIMMICK-OBAYASHI, 34-2014-80001750 (08-R3D3-5023 THROUGH 5025)
21. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
22. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
23. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
24. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
25. TL PAVLICH CONSTRUCTION, INC., BS14-9660 (11-R3D6-1303 THROUGH 1310)
26. DAVIS DEVELOPMENT CO., 34-2014-80001892 (10-R3D1-3360 THROUGH 3362)
27. FEDEX GROUND PACKAGING SYSTEM, INC., CIVDS1415696 (13-R3D1-1220)
28. KEY ENERGY SERVICES, INC., S-1500-CV-283958, EB (13-R4D3-2239 ~ 2242)
29. KDTD, INC. DBA KD DEVELOPMENT, INC., 37-2015-00003550-CU-WM-CTL (14-R3D2-1935 & 1936)
30. HHS CONSTRUCTION, 34-2015-80002052 (12-R3D2-0492 THROUGH 0497)
31. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR, 15CV-00945 (08-R2D1-3093 ~ 3098)
32. STANISLAUS FOOD PRODUCTS CO., 34-2015-80002087 (13-R2D4-0572 ~ 0574)
33. OLDCASTLE PRECAST, INC., 34-2015-80002167 (13-R3D3-0583)

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APPELLATE COURT:

1. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
2. AC TRANSIT, A142799, RG13-687314 (08-R1D4-0135)
3. THYSSENKRUPP ELEVATOR CORPORATION, C077115, 34-2013-80001456 (11-R2D1-2217 ~ 2219)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, C078953, 34-2011-80000965, (10-R6D2-0188 THROUGH 0191)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ALL STAR SEED, 15-R3D2-0046
2. ALTMAN SPECIALTY PLANTS, INC., 15-R3D2-1394
3. AMERICAN HVAC MFG., INC., 15-R3D5-2053 AND 2054
4. ASSOCIATED FEED & SUPPLY CO, 14-R2D4-4056 AND 4057
5. BAKKAVOR USA, INC., DBA TWO CHEFS ON A ROLL, 15-R3D5-0398 THROUGH 0400
6. BARRETT BUSINESS SERVICES INC, 14-R2D1-3364
7. BCJ SAND & ROCK, INC., 15-R5D1-0062
8. BIG W RANCH, 15-R2D3-2639
9. BIRMINGHAM REALTY SERVICES INC, 15-R3D1-0957
10. BRIONES MAINTENANCE SERVICES CORP. BMS, 15-R1D2-2724 AND 2725
11. CALIBER HOLDINGS CORPORATION DBA CALIBER COLLISION, 14-R3D3-0702 AND 0703

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12. CALIFORNIA EXPANDED METAL PRODUCTS CO. DBA CEMCO, 15-R1D5-1113 AND 1114
13. C J AMERICA DBA CJ FOODS MANUFACTURING CORPORATION, 15-R3D1-1509 AND 1510
14. CMC STEEL FABRICATORS INC DBA CMC REBAR, 15-R3D2-1783
15. COASTAL MANUFACTURING, INC., 15-R1D2-1374 THROUGH 1376
16. DENNIS COLBERN DBA DENNIS COLBERN TILE CO., 15-R6D5-2821
17. CTS VENTURES DBA CYRUS TREE SERVICE, INC., 14-R2D1-3797 AND 3798
18. COUNTY OF LOS ANGELES FIRE DEPT., 14-R4D3-3950 THROUGH 3953
19. DE LA ROSA WOOD DESIGN, INC., 15-R3D5-0361
20. EDELBROCK FOUNDRY LLC, 15-R6D2-0029 THROUGH 0032
21. THE EPIPHANY HOTEL, 15-R1D3-2825
22. FILGER MANUFACTURING, INC., 14-R3D1-3085
23. FRITO-LAY, INC., 15-R4D7-1648 AND 1649
24. GALASSO'S BAKERY, 15-R3D3-2177 AND 2178
25. GB ENERGY, INC. DBA GRANITE BAY ENERGY, 14-R2D1-3961 AND 3962
26. GERCO CONTRACTORS, INC., 14-R3D1-2786
27. GLOBAL HVAC DISTRIBUTORS, INC., 15-R2D5-0010
28. GRANADA WROUGHT IRON, INC., 15-R4D1-1968
29. GRANITE CONSTRUCTION COMPANY, 14-R5D1-3693
30. HARRIS BLADE RENTAL, 14-R2D2-0449
31. HIGH COUNTRY OUTDOOR, 14-R2D4-3820
32. HOME DEPOT USA, INC., 15-R1D3-3027 AND 3028

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33. HOMEPRO REMODELING, INC. DBA ADVANTAGE LANDSCAPING, 15-R6D5-2757 AND 2758
34. JACKRABBIT, INC., 15-R2D4-1208 AND 1209
35. KENYON PLASTERING OF FRESNO INC, 14-R2D5-2975
36. LAND O'LAKES, INC., 15-R2D5-1238 THROUGH 1240
37. LAS HUERTAS FARM LABOR, 14-R4D3-2810
38. LEVY RESTAURANTS, 14-R4D1-3585
39. MAINTENANCE SERVICES, INC., 12-R2D5-1156 THROUGH 1168
40. MARICOPA ORCHARDS, LLC, 14-R4D7-3333 THROUGH 3335
41. MARUCHAN, INC., 15-R3D1-0070 THROUGH 0072
42. MATILDE ALVEREZ DE PEREZ DBA M A FASHION, 15-D6D5-2541 AND 2542
43. MV TRANSPORTATION, INC., 14-R3D1-2820
44. NORM WILSON & SONS, INC., 14-R4D1-3771
45. PACIFIC CAR WASH & MARKETPLACE, INC., 15-R2D4-1120 THROUGH 1122
46. PEKING NOODLE, INC., 14-R4D1-3636
47. REED AND GRAHAM, INC., 15-R1D2-2760 THROUGH 2762
48. ROBERT S. FLORES, D.M.D., INC. DBA R&R DENTAL CARE, 15-R4D7-1466 AND 1467
49. ROSSI & SON PAINTING, INC., 15-R6D5-0695
50. ROUTE 66 CAR WASH, 14-R4D4-2932
51. SALINAS VALLEY MEMORIAL HOSPITAL, 15-R1D2-2244
52. SAUNDERS AIR CONDITIONING & HEATING, 14-R2D4-3905
53. SELECT STAFFING COMPANIES, 14-R4D4-0181 AND 0182
54. SHIBAH FASHION INC., 15-R6D5-2716 AND 2717

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55. SONOMACEUTICALS LLC, 15-R1D5-0557 THROUGH 0559
56. SONOMACEUTICALS LLC, 15-R1D5-0560 AND 0561
57. USA CORP. DBA WILCOX & WILCOX, 14-R4D3-3884 THROUGH 3885
58. UTC AEROSPACE SYSTEMS, 14-R3D2-3215
59. VALASSIS DIRECT MAIL, 15-R4D4-0448 THROUGH 0450
60. VALLEYCREST LANDSCAPE MAINTENANCE, INC., 14-R4D1-3784
61. VALLEY WEST FARMS, INC, 15-R4D7-1928 & 1929 AND 15-R4D7-2048
62. VERTEX COATINGS, INC., 15-R3D3-2650 AND 2651
63. VLOT BROTHERS CALF RANCH, 15-R2D5-0105
64. WEST COAST AEROSPACE, INC., 15-R3D5-0980 AND 0981
65. WILLIAM J. BRYANT CONSTRUCTION, INC, 14-R2D5-3821
66. ZANKER ROAD RESOURCE MANAGEMENT, LTD., 14-R1D2-3567 AND 3568

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.